
By: **Delegate Krysiak**

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Release of Mortgages and Deeds of Trust**

3 FOR the purpose of authorizing a clerk to accept a certain certificate of satisfaction
4 and record a release of a certain mortgage or deed of trust received from an
5 attorney or licensed title insurance agent under certain circumstances;
6 requiring the attorney or licensed title insurance agent who satisfies the debt to
7 allow a certain waiting period for the party satisfied to provide a release for
8 recording; requiring the attorney or licensed title insurance agent to send the
9 party satisfied a certain notice within a certain period of time; allowing a certain
10 waiting period for the party satisfied to provide a release for recording;
11 requiring the certificate of satisfaction to identify the party executing the
12 certificate of satisfaction; requiring the certificate of satisfaction to include a
13 certain affidavit; prohibiting a clerk from accepting a certificate of satisfaction
14 for recording under certain circumstances; and generally relating to the
15 recording of a certificate of satisfaction from an attorney or licensed title
16 insurance agent in order to release a mortgage or deed of trust.

17 BY repealing and reenacting, without amendments,
18 Article - Real Property
19 Section 3-105(a)
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2000 Supplement)

22 BY adding to
23 Article - Real Property
24 Section 3-105(j)
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 2000 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Real Property

2 3-105.

3 (a) A mortgage or deed of trust may be released validly by any procedure
4 enumerated in this section.

5 (J) (1) WHEN THE DEBT OR OTHER OBLIGATION SECURED BY A MORTGAGE
6 OR DEED OF TRUST IS PAID FULLY OR SATISFIED BY OR UNDER THE SUPERVISION OF
7 AN ATTORNEY OR LICENSED TITLE INSURANCE AGENT RESPONSIBLE FOR THE
8 DISBURSEMENT OF FUNDS IN CONNECTION WITH A GRANT OF TITLE, THE HOLDER
9 OF THE MORTGAGE, DEED OF TRUST NOTE, OR OTHER OBLIGATION SECURED BY A
10 DEED OF TRUST FAILS TO COMPLY WITH THE REQUIREMENTS OF § 7-106(D) OF THIS
11 ARTICLE, AND THE ATTORNEY OR LICENSED TITLE INSURANCE AGENT EXECUTES
12 AND ACKNOWLEDGES A CERTIFICATE OF SATISFACTION SUBSTANTIALLY IN THE
13 FORM SPECIFIED UNDER § 4-203(D) OF THIS ARTICLE AS THE AGENT OF THE PARTY
14 SATISFIED AND CONTAINING THE DATE AND LAND RECORD RECORDING REFERENCE
15 OF THE INSTRUMENT TO BE RELEASED, THE CERTIFICATE OF SATISFACTION MAY BE
16 RECEIVED BY THE CLERK AND INDEXED AND RECORDED AS ANY OTHER
17 INSTRUMENT IN THE NATURE OF A RELEASE AND SHALL HAVE THE SAME EFFECT AS
18 A RELEASE EXECUTED BY THE HOLDER OF A MORTGAGE, DEED OF TRUST NOTE, OR
19 OTHER OBLIGATION SECURED BY A DEED OF TRUST, IF:

20 (I) THE ATTORNEY OR LICENSED TITLE INSURANCE AGENT
21 MAKING SATISFACTION OF THE DEBT OR OTHER OBLIGATION OR UNDER WHOSE
22 SUPERVISION THE SATISFACTION IS MADE HAS:

23 1. ALLOWED AT LEAST A 60-DAY WAITING PERIOD FROM
24 THE DATE THE DEBT OR OTHER OBLIGATION SECURED BY THE MORTGAGE OR DEED
25 OF TRUST IS PAID FULLY OR SATISFIED FOR THE PARTY SATISFIED TO PROVIDE A
26 RELEASE SUITABLE FOR RECORDING;

27 2. SENT THE PARTY SATISFIED A COPY OF THIS SECTION
28 AND A NOTICE THAT, UNLESS A RELEASE IS PROVIDED WITHIN 30 DAYS, THE
29 ATTORNEY MAKING SATISFACTION OR UNDER WHOSE SUPERVISION SATISFACTION
30 IS MADE OR THE LICENSED TITLE INSURANCE AGENT MAKING SATISFACTION
31 INTENDS TO EXECUTE, ACKNOWLEDGE, AND RECORD A CERTIFICATE OF
32 SATISFACTION AS THE AGENT OF THE PARTY SATISFIED; AND

33 3. FOLLOWING THE MAILING OF THE COPY AND NOTICE
34 REQUIRED UNDER ITEM 2 OF THIS ITEM, ALLOWED AN ADDITIONAL WAITING PERIOD
35 OF AT LEAST 30 DAYS FOR THE PARTY SATISFIED TO PROVIDE A RELEASE SUITABLE
36 FOR RECORDING;

37 (II) THE CERTIFICATE OF SATISFACTION IDENTIFIES THE PARTY
38 EXECUTING AND ACKNOWLEDGING THE CERTIFICATE OF SATISFACTION AS
39 "ATTORNEY MAKING SATISFACTION AND AGENT" OR "LICENSED TITLE INSURANCE
40 AGENT MAKING SATISFACTION AND AGENT"; AND

1 (III) THERE IS ATTACHED TO THE CERTIFICATE OF SATISFACTION
2 AN AFFIDAVIT OF THE ATTORNEY OR LICENSED TITLE INSURANCE AGENT
3 EXECUTING THE CERTIFICATE OF SATISFACTION AS THE AGENT OF THE PARTY
4 SATISFIED THAT:

5 1. STATES THAT:

6 A. THE DEBT OR OTHER OBLIGATION SECURED BY THE
7 MORTGAGE OR DEED OF TRUST HAS BEEN PAID FULLY OR SATISFIED BY OR UNDER
8 THE SUPERVISION OF THE ATTORNEY OR LICENSED TITLE INSURANCE AGENT;

9 B. THE AFFIANT IS EITHER AN ATTORNEY ADMITTED TO
10 PRACTICE BEFORE THE MARYLAND COURT OF APPEALS AND A MEMBER OF THE
11 MARYLAND BAR IN GOOD STANDING OR A TITLE INSURANCE AGENT LICENSED BY
12 THE MARYLAND INSURANCE ADMINISTRATION;

13 C. THE NOTICE REQUIRED UNDER ITEM (I)2 OF THIS
14 PARAGRAPH HAS BEEN SENT;

15 D. THE PROVISIONS OF ITEM (I)1 AND 3 OF THIS PARAGRAPH
16 HAVE BEEN COMPLIED WITH; AND

17 2. SPECIFICALLY SETS FORTH THE LAND RECORD
18 REFERENCE WHERE THE ORIGINAL MORTGAGE OR DEED OF TRUST IS RECORDED.

19 (2) A CERTIFICATE OF SATISFACTION EXECUTED AND ACKNOWLEDGED
20 BY A PARTY MAKING SATISFACTION OF A DEBT OR OTHER OBLIGATION SECURED BY
21 A MORTGAGE OR DEED OF TRUST WHO IS NOT IDENTIFIED AS EITHER AN ATTORNEY
22 OR A LICENSED TITLE INSURANCE AGENT BUT WHO PURPORTS TO BE THE AGENT OF
23 THE PARTY SATISFIED OR TO WHICH THE AFFIDAVIT REQUIRED UNDER ITEM (III) OF
24 THIS PARAGRAPH IS NOT ATTACHED MAY NOT BE ACCEPTED BY THE CLERK FOR
25 RECORDING AND, IF RECORDED, MAY NOT BE DEEMED AN EFFECTIVE RELEASE OF
26 THE MORTGAGE OR DEED OF TRUST.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2001.